

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.

Plaintiff

Civil Action No.: 07CV3219 (LTS) (DCF)

- against -

EMINENT, INC., SAKS FIFTH AVENUE, INC.,  
INTERMIX, INC., WINK NYC, INC.,  
LISA KLINE, INC., GIRLSHOP, INC.,  
SHOWROOM SEVEN STUDIOS, INC.,  
JONATHAN SINGER, LEWIS TIERNEY and  
JONATHAN SOLNICKI,

Defendants.

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**DECLARATION IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL**

John P. Bostany, hereby declares, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

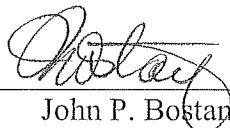
1. I am attorney for Plaintiff in this proceeding and respectfully make this declaration based upon my review of the files maintained in the firm's offices as well as my personal participation in certain proceedings.

2. This Declaration is respectfully submitted in support of Plaintiff's application for an Order (1) pursuant to Rules 37(a)(1), 37(a)(3)(B)(i) and 45 of the Federal Rules of Civil Procedure ("Fed.R.Civ.P.") compelling non-party deponent Charlotte B LLC to answer questions properly put to deponent's designated witness pursuant to Fed.R.Civ.P. Rules 30(a)(1), 30(b)(6), and 45; (2) pursuant to Fed.R.Civ.P. Rule 37(a)(3)(B)(ii) and Fed.R.Civ.P. Rule 45 compelling non-party deponent Charlotte B LLC to designate a proper witness pursuant to Fed.R.Civ.P. Rule 30(b)(6); (iii) for appropriate sanctions pursuant to Fed.R.Civ.P. Rule 30(d) (2); and (iv) for such other relief as this court deems just and proper.

3. I concur with Mr. Paltrowitz' declaration that it is clear from the Transcript that Plaintiff's Counsel had more questions but it was the Designated Witness's Counsel's preference to complete the deposition on another day after rulings were obtained. (See, Transcript, p 69). Counsel's statements had convinced us that he was not going to return (See, Transcript, pp. 70-72.) The Court reporter was released with a sound bite to be instituted in the record at 1 p.m. Since Counsel and witness had not returned by 1pm, the fact that a sound bite was used is academic.
4. However, on this motion, to relieve the Court from ruling on whether Plaintiff should be permitted to ask additional questions, given the Witness's returning at close to 1 pm, we respectfully ask only that CHARLOTTE B LLC produce a witness with knowledge to answer both the questions that were asked and the witness was directed not to answer as well as those questions that the witness had no knowledge of.

Dated: New York, New York  
March 17, 2008

Respectfully Submitted,

By:   
John P. Bostany (JB 1986)